Supreme Court, U.S.
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JOSEPH F. SPANIOL, JR.
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No. 85-886

In The

Supreme Court Of The United States

OCTOBER TERM, 1985

DOMINIC F. BRUNO,
Petitioner,

v.

STATE OF CONNECTICUT,
Respondent.

BRIEF IN OPPOSITION TO THE PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT FOR THE STATE OF CONNECTICUT

JOHN M. MASSAMENO
Assistant State's Attorney
Senior Appellate Attorney
Office of the Chief State's Attorney
Division of Criminal Justice
340 Quinnipiac Street
Wallingford, CT 06492
(203) 265-2373

Counsel of Record for Respondent

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QUESTION PRESENTED

Whether violation of the Sixth Amendment right of confrontation as to one witness may be rendered harmless beyond a reasonable doubt by the existence of overwhelming evidence of guilt.

STATEMENT OF THE CASE

After the Petitioner's state court trial, he was convicted of six counts of eavesdropping, and two counts of criminal mischief. Pet. App. at 2A. On appeal to the State Appellate Court and thereafter to the State Supreme Court, the Petitioner claimed that his confrontation rights were violated when, in accordance with Conn. Gen. Stat. § 52-146e (Rev. to 1979), the trial court did not permit him to examine the psychiatric records of a State witness prior to cross examination. The Connecticut Supreme Court assumed that the Petitioner's confrontation rights were thereby violated, but found that any such violation was harmless beyond a reasonable doubt based on other overwhelming evidence of guilt. Accordingly, the convictions were affirmed. Pet. App. at 10A.

REASONS FOR DENIAL OF THE PETITION

The limited question presented by the Petition for a Writ of Certiorari already has been resolved by this Court. In *Harrington v. California*, 395 U.S. 250, 253-54 (1969) and later in *Brown v. United States*, 411 U.S. 223, 254 (1973), this Court concluded that violations of the Sixth Amendment right of confrontation could be harmless beyond a reasonable doubt on the basis of overwhelming independent evidence of guilt. *See also Van Arsdale v. State*, 486 A.2d 1 (Del. 1984), *cert. granted sub nom. Delaware v. Van Arsdale*, 53 U.S.L.W. 3913 (U.S. June 25, 1985) (No. 84-1279) (government's petition for writ of certiorari granted to review State court's conclusion that Sixth Amendment violation could not be harmless).

The principle that the Petitioner challenges having been firmly established in this Court, the only question that remains is whether it was correctly applied below. Surely this Court's resources ought not to be spent in resolving questions wholly dependent on unique factual contexts. *See Wolfe v. North Carolina*, 364 U.S. 177, 196 (1960); *United States v. Johnston*, 268 U.S. 220, 227 (1925).

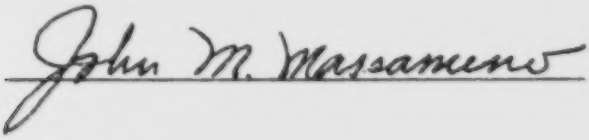
CONCLUSION

For these reasons, the State of Connecticut urges this Court to deny the petition.

Respectfully submitted,

THE RESPONDENT
STATE OF CONNECTICUT

JOHN J. KELLY
Chief State's Attorney



By:

JOHN M. MASSAMENO
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